

**IN THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF VIRGINIA  
Newport News Division**

CENTER FOR BIOLOGICAL DIVERSITY,

Plaintiff,

v.

U.S. MARITIME ADMINISTRATION,  
PETE BUTTIGIEG, in his official capacity,  
and LUCINDA LESSLEY, in her official  
capacity,

Defendants.

Civil Action No. 4:21-cv-132 (EWH/LRL)

**PLAINTIFF'S STATUS REPORT**

On September 18, 2024, the Court held a status conference wherein the parties discussed the issuance of a Biological Opinion produced by the National Marine Fisheries Service (NMFS) regarding certain grants issued by the Maritime Administration (MARAD) to increase vessel traffic on the James River in Virginia. Plaintiff noted that the Biological Opinion did not appear to cover a 2021 MARAD grant, which had been the subject of summary judgment briefing, but which the Court had found not to have been noticed under the ESA's notice requirement (which Plaintiff had subsequently cured through a supplemental notice letter). Since Plaintiff had only received the Biological Opinion on September 16 – just two days before the status conference – Plaintiff was unsure as to whether further litigation was necessary regarding the 2021 MARAD

grant. The Court requested that Plaintiff submit its position as to any outstanding matters on or before September 25.

On September 19, 2024, counsel for Defendants provided Plaintiff with a clarification regarding the Biological Opinion, noting that although the Biological Opinion does not specify that it covers the 2021 MARAD grant, the activities funded by that grant were included in the description of the action being covered by the Biological Opinion.

Having considered this matter further, Plaintiff agrees that the Biological Opinion covers the activities funded by the 2021 MARAD grant. Therefore, other than the disposition of fees and costs, Plaintiff agrees that no additional litigation is necessary in this docket. If Plaintiff deems it necessary to seek further recourse against MARAD for any ESA violations, or against NMFS for any inadequacies regarding the Biological Opinion, it will do so through a new complaint.

Dated: September 23, 2023.

Respectfully submitted,

/s/ Hannah Connor

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